IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05/02/2004

CORAM

THE HONOURABLE MR.JUSTICE P.D. DINAKARAN

Writ Petition No.7581 of 2003
and
WPMP.Nos.9747 and 9748 of 2003

M.Vasantha .. Petitioner

-Vs-

1.The Registrar of Cooperative
Societies,
N.V.N. Maaligai,
Kilpauk, Chennai-10.

2.The Managing Director/
Deputy Registrar of Cooperative
Societies,
Kanyakumari District Central
Cooperative Bank,
Alexendra Press Road,
Nageroil,
Kanyakumari District.

3.The District Employment Officer,
Kanyakumari District Employment
Exchange,
Nagercoil,
Kanyakumari District.

4.The Special Officer,
Kanyakumari District Central
Cooperative Bank Ltd.,
Nagercoil,
Kanyakumari District. .. Respondents

Prayer: Petition under Article 226 of the Constitution of India
praying for a writ of Certiorarified Mandamus as stated therein.

For Petitioner : Mr.M.Jaichandran

For Respondents : Mr.M.S.Palanisamy,

Addl. Govt. Pleader.

:O R D E R

The petitioner is the wife of one Mr.A.R.Christopher, who is serving as a soldier in defence service, has applied for the post of Junior Assistant (Clerical) in the Kanyakumari District Central Government Cooperative Bank at Nagercoil, of course, placing reliance on G.O.Ms.No.134, Personnel and Administrative Reforms (PER & R) Department dated 19.3.1990.

1.2. As her application was not considered by the said Bank, she moved this Court in Writ Petition No.8186 of 2001 and this Court by an order dated 24.4.2001 in Writ Petition No.8186 of 2001 directed the first respondent to consider the proposal forwarded by one A.R. Christopher, Engineer Regiment to the third respondent dated 3.3.2000 requesting the third respondent to consider the name of the petitioner for being sponsored to the post of Junior Assistant in Kanyakumari District Central Government Cooperative Bank at Nagercoil, within a period of two months from the date of receipt of that order.

1.3. Pursuant to the said direction of this Court dated 24.4.2001 made in Writ Petition No.8186 of 2001, the first respondent by proceedings dated 26.6.2001 rejected her application, holding that there is no provision in the said Government Order to consider the name of the petitioner for the service in the Cooperative Societies, rejected her application. Hence, the petitioner seeks a writ of Certiorarified Mandamus to call for the records relating to the proceedings of the first respondent R.C.No.40506/2001/CBSI, dated 26.6.2001, quash the same and to direct the fourth respondent to call for the name of the petitioner from the Kanyakumari District Employment Exchange and appoint her in the post of Assistant in the Kanyakumari District Central Cooperative Bank, Nagercoil, on priority basis as the wife of servicing military personnel in accordance with G.O.Ms.No.134, Personnel and Administrative Reforms (PER & R) Department, dated 19.3.1990.

2. In this regard, I am obliged to refer G.O.Ms.No.134, Personnel and Administrative Reforms (PER & R) Department, dated 19.3.1990, which reads as follows:
GOVERNMENT OF TAMIL NADU
ABSTRACT
Public Services Recruitment through Employment Exchanges Order of Priority Priority for Ex-Indian peace keeping Force personnel and their dependents Amendment Issued.

PERSONAL AND ADMINISTRATIVE REFORMS (PER&R) DEPARTMENT.

G.O.Ms.No.134 Dated 19.3.199
Read:
1. G.O.Ms.No.188, Personnel and Administrative Reforms (per.p) Department, dated 28.12.1976.

2.G.O.Ms.No.1196, public (Ex.servicemen) Department, dated 4.8.1988.

3. From the Director of Employment and Training, Madras letter No. Pa.Pa.1/63627/88, dated 1.9.1989.

ORDER:

In the Government Order second read above Government have issued orders extending all concessions that are given to the dependents of war casualties to the dependents of casualties. Indian peace keeping Force Operations. The Departments of Secretariat were also requested to take action on the subjects with which they are concerned to extend the concessions granted to the personnel wounded or disabled and to the dependents of wounded defence personnel of Indian peace keeping force on the basis that are allowed to the war casualties of 1962, 196 5.

2. The Director of Employment and Training has reported that the Government have already extended "priority" concession in the matter of employment generally to those disabled and dependents of those killed/disabled personnel while performing duties in aid to civil power. Therefore, the "priority" concern in the matter of employment is available also to the Indian peace Keeping Force personnel disabled/ killed in action. He has however suggested that specific mention may be made in the list of priority categories so that the disabled and the dependents of Indian peace keeping Force personnel will not be omitted by the Employment Exchanges while sponsoring the names to the employers against the vacancies reserved for priority categories. He has accordingly suggested suitable modification to the currant list of priority categories contained in G.O.Ms.No.188, Personnel and Administrative Reforms (Per.R) Department, dated 28.12.1976 for recruitment through Employment Exchanges by adding the words 'Indian Peace Keeping Force Personnel" at appropriate places.

3. The Government after careful consideration accept the suggestion of the Director of Employment and Training and issue the following amendment to G.O.Ms.No.188, Personnel and Administrative Reforms (Per. R) Department, dated 28.12.1976.

AMENDMENT

In the list of priority categories annexed to the said Government Order:-

(i) for the existing item (i) and (ii), under Group-1, the following shall be substituted:-

(i)Disabled Ex-servicemen including Ex-Indian Peace Keeping Force Personnel, (Disabled Ex-servicemen mean Ex-servicemen who while serving in the armed forces of the union were disabled in operation against enemy or disturbed areas)

(ii)Upto two members of the family (widows/sons/Daughters/Next of kin) of the enrolled personnel of the Armed Forces including the Indian peace Keeping Force who were killed or disabled in action and are totally unfit for re-employment leaving their families in indigent circumstances and up to two members of the family (widows/sons/Daughters/ next of kin) of Border Security Force personnel killed in action and up to two members of the family (widows/sons/Daughters/next of kin) of the personnel of Assam Rifles killed in action. Ex.Personnel of Indo Tibetan Border police/disabled personnel of Indo Tibetan Border police boarded out or retired pre-maturely due to service

conditions/up to two members of the family (widows/sons/daughters/next of kin) of the personnel of the Indo Tibetan Border police who were killed or disabled in actions and are totally unfit for re-employment leaving their families in indigent circumstances.
(ii) for the existing item (iii) under Group II, the following shall be substituted:-
(iii) Ex-servicemen and Ex-Indian peace keeping Force personnel and the wives, sons and unmarried daughters of serving Military Personnel, of Ex-servicemen and of Ex-Indian peace keeping Force.
(BY ORDER OF THE GOVERNOR)
S.Sivasubramanian,
Secretary to Govt.
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3. Mr.M.S.Palanisamy, learned Additional Government Pleader appearing for respondents, contends that the said G.O. is not applicable to the Cooperative Societies and that though a reliance is placed by the learned counsel for the petitioner on Rule 149(3) of the Tamil Nadu Cooperative Societies Rules, which provides age relaxation for appointment and retirement in the Cooperative Societies, as applicable to the Government servants, the said Rule is not at all attracted in the instant case, as the petitioner only seeks priority in the matter of appointment in the Cooperative Society, but not age relaxation.

4. I, therefore, do not find any reason to interfere with the impugned order of the first respondent dated 26.6.2001 holding that the petitioner is not entitled to place reliance on the said G.O.

5. However, considering the facts and circumstances of the case and the relief sought for by the petitioner, this Court cannot overrule the spirit behind the G.O. The Government in the said G.O. relied upon by the learned counsel for the petitioner intend to give certain concession on the dependents of the family members of the soldiers working in the defence service, and at least a right of priority in the matter of appointments that are made through the Employment Exchanges. It cannot be disputed that Rule 149(2) of the said Rules contemplates that all appointments in the Cooperative Societies shall be made only through the Employment Exchanges.

6. In that view of the matter, if any appointment is to be made in the Cooperative societies or Banks under the jurisdiction and control of the first respondent, the same shall be done among the candidates sponsored by the Employment Exchanges. When the Government has given certain right of priority to the dependents of the soldiers giving direction to the Employment Exchanges also to sponsor the names of such of those dependents, who are covered under

the the G.O. for appointment in the Government service, it is desirable to extend such benefit even in the appointments to the Cooperative Societies in order to achieve the spirit and object of the said G.O.

7. Hence, suffice it to direct the Government to take appropriate decision in the matter and give suitable direction not only to the Employment

Exchanges, but also to the Registrar of Cooperative Societies, for extending such right of priority to the dependents of soldiers, who are serving in the defence, in the matter of employment in the Cooperative Societies and Banks also, at the earliest possible, in any event, within six months from the date of receipt of a copy of this order. If any such positive decision is taken in this regard, the same shall be extended to the petitioner.
With the above observations, the writ petition is disposed of. No costs. Consequently, WPMP.Nos.9747 and 9748 of 2003 are closed.

Index :Yes
Internet:Yes

ATR

To,

1.The Registrar of Cooperative
Societies,
N.V.N. Maaligai,
Kilpauk, Chennai-10.

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Deputy Registrar of Cooperative
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